MULTIMEDIA UNIVERSITY

STUDENT ID NO

MULTIMEDIA UNIVERSITY

FINAL EXAMINATION

TRIMESTER 1, 2022/2023 (TERM ID 2210)

UCN2612 – CONFLICT OF LAWS

(All Sections / Groups)

6 FEBRUARY 2023
Reading Time: 9.00 a.m. – 9.15 a.m.
(15 minutes)
Answering Time: 9.15 a.m. – 12.15 p.m.
(3 hours)

INSTRUCTIONS TO STUDENT

1. Students will have **fifteen minutes** during which they may read the paper and make rough notes **ONLY** in their question paper. Students then have the remaining **THREE HOURS** in which to answer the questions.

2. This Question paper consists of **THREE** pages with **FIVE** Questions only.

3. **Attempt either Question One A (1A) OR Question One B (1B). Questions Two, Three AND Four are compulsory.** All questions carry equal marks and the distribution of the marks for each question is given.

4. Please write all your answers in the Answer Booklet provided.

ATTEMPT EITHER

QUESTION 1A

Every intentional contract has a governing law to determine and resolve issues arising out of disputes therefrom. Subject to certain limitations, parties from differing jurisdictions who enter into a contract are free to choose the applicable law. However, if the parties fail to make a choice, the governing law will be the law of the country with which the contract is most closely connected.

Explain how this law may be determined.

(Total: 25 marks)

OR

QUESTION 1B

Explain the general presumption made in determining the *lex* for contracts as explained in the case of *Bank of Baroda v Vysya Bank* [1994] 2 Lloyd's Rep 87.

(Total: 25 marks)

Continued...

ATTEMPT ALL QUESTIONS

QUESTION 2

Adam was a French national who traveled widely. After a visit to Malaysia, he decided to stay here. He found a job, married and had two daughters. His wife, Catherine, was from Manchester, England who had come to Malaysia to work with the United Kingdom embassy. His two daughters, Ariana and Ariadne were born in Malaysia.

Ten years after their wedding, Adam and Catherine's marriage broke down. They divorced. Catherine received custody of the children and took them with her to England. The family unit lived there ever since.

Adam continued to live in Malaysia for another six years, after which he went to Cambodia for work. He rented an apartment while living and working there for four years. His house in Malaysia has been left as it was. While in Cambodia, he met with an accident and died.

Ten years after the divorce, Ariana moved to France to get to know her father's family. She has decided to stay there and has lived there for four years. She has applied to be a French national. In the meantime, Ariadne went to Sweden for work, fell in love with a Swede and married him. She applied for and received her Swedish citizenship. After a year, she divorced her husband and decided to return to London for good. On the way to the train station, she fell into a river by accident and drowned.

Discuss the domicile of each of the persons in the facts above.

(Total: 25 marks)

QUESTION 3

Angus Ang is a Malaysian student studying architecture in Australia on a scholarship. Several months ago, Windy Wong started writing to the lecturers at Angus' university that he was known to cheat in tests and assignments. She further stated that he was abusing his scholarship by, *inter alia*, going on holidays, not studying and abusing drugs and other substances.

Despite his good grades at school, Angus has lost his scholarship. He has decided to take legal action against her. It has been discovered that Windy is a Malaysian and was writing from Malaysia.

Advise on the choice of law that would be used for this matter.

(Total: 25 marks)

Continued...

QUESTION 4

When a court has to decide whether a marriage is valid, it will take into consideration foreign elements that may be involved. In such an event, it is necessary that any alleged defect to a marriage be classified as relating to either formalities or essentials.

Explain the rules relating to the essential validity of such marriages with relevant case law.

(Total: 25 marks)

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